

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee
Administrative Office of the Courts
Center for Families, Children & the Courts
Corby Sturges, Attorney, 415-865-4220

DATE: August 25, 2003

SUBJECT: Family and Juvenile Law: Technical Changes to Rules and Forms
(renumber Cal. Rules of Court, rules 5.170 and 5.171; amend rules 5.220
and 5.230; revise forms FL-170, FL-651, and JV-635) (Action Required)

Issue Statement

Members of the Family and Juvenile Law Advisory Committee, court personnel, members of the public, and Administrative Office of the Courts staff have identified some errors and omissions that must be corrected in rules and forms. These proposals were not circulated for comment because they are noncontroversial, technical in nature, and urgently needed to promote the effective administration of justice.

Recommendation

Staff recommends that the Judicial Council, effective January 1, 2004:

1. Renumber rules 5.170 and 5.171 as 5.70 and 5.71 to move them to the appropriate chapter of the family law rules;
2. Amend rule 5.220 to correct typographical errors;
3. Amend rule 5.230 to implement the council's prior decision to eliminate the rule's requirement of initial in-person classroom instruction for child custody evaluators and investigators;
4. Revise form FL-170 to correct its reference to form FL-141;
5. Revise form FL-651 to provide space for a receiving court to stamp the form and make other technical corrections; and

6. Revise form JV-635 to correct the reference to the governing statute.

The text amended rules is attached at pages 4 and 5; the text of the revised forms is attached at pages 6–9.

Rationale for Recommendation

Rules 5.170 and 5.171

Rules 5.170 and 5.171, adopted effective July 1, 2003, govern limited scope representation in family law proceedings. When added to the California Rules of Court, they were placed in the chapter governing joinder of parties. Because these rules apply more broadly to representation of any party in a family law case, staff recommends renumbering these rules as 5.70 and 5.71 to move them to the first chapter of the family law rules, which sets forth general provisions.

Rule 5.220

Rule 5.220(g) refers to rules 5.425 and 5.430. No such rules of court exist. The subdivision should refer to rules 5.225 and 5.230. Staff recommends amending the rule to correct this reference.

Rule 5.230

Effective January 1, 2002, the council eliminated rule 5.230's requirement that the 12-hour advanced domestic violence training for child custody investigators and evaluators be limited to in-person classroom instruction. The amended rule did not, however, successfully delete every instance of that requirement. Staff recommends amending the rule to delete the remaining instances of this requirement.

Form FL-170, Declaration for Default or Uncontested Dissolution or Legal Separation Item 6a on form FL-170 misidentifies form FL-141, *Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration*, and mistakenly requests information about the filing of form FL-150, *Income and Expense Declaration*. Staff recommends revising item 6a to correctly identify form FL-141 and delete the reference to form FL-150.

Form FL-651, Notice of Registration of California Support Order (Governmental) Family Code section 5601(e) requires a court that registers a California child support order to send a notice to any courts that have previously entered a support order in the same case. This notice is critical because Family Code section 5601(e) also prohibits the filing of further proceedings regarding that support obligation in courts other than the court in which the order is registered. Form FL-651 currently has a file stamp area only for the registering court. Because there is no file stamp area for the courts where prior orders have been issued or registered, many courts that receive these notices reportedly discard them. The absence of notice in the case files has led to the result that actions have been filed in courts no longer having jurisdiction over them. Staff recommends revising

form FL-651 to include a second stamp box for use by a court that receives notice. The receiving court would then be able to process the notice form and avoid improper assumption of jurisdiction in cases in which another court has registered a support order. Staff also recommends identifying the registering and receiving courts in item 1.

Form JV-635, Promise to Appear—Juvenile

The current version of form JV-635 inaccurately identifies the governing statutory provisions. The revised form would correctly identify Welfare and Institutions Code section 629.

Alternative Actions Considered

The proposed amendments and revisions are necessary to correct nonsubstantive, technical errors in the rules and forms. No alternative actions were considered.

Comments From Interested Parties

These proposals were not circulated for comment because they are noncontroversial, technical in nature, and urgently needed to promote the effective administration of justice.

Implementation Requirements and Costs

Courts will incur minimal costs in printing the revised forms.

Attachments

Rules 5.170 and 5.171 of the California Rules of Court are renumbered, and rules 5.220 and 5.230 of the California Rules of Court are amended, effective January 1, 2004, to read:

Rule ~~5.170~~ 5.70. Nondisclosure of attorney assistance in preparation of court documents

(a)–(c) ***

Rule ~~5.171~~ 5.71. Application to be relieved as counsel upon completion of limited scope representation

(a)–(f) ***

Rule 5.220. Court-ordered child custody evaluations

(a)–(f) ***

(g) **[Requirements for evaluator qualifications, training, continuing education, and experience]** All child custody evaluators must meet the qualifications, training, and continuing education requirements specified in Family Code sections 1815, 1816, and 3111, and rules ~~5.425~~ 5.225 and ~~5.430~~ 5.230.

(h)–(i) ***

Rule 5.230. Domestic violence training standards for court-appointed child custody investigators and evaluators

(a)–(c) ***

(d) **[Mandatory training]** Persons appointed as child custody investigators under Family Code section 3110 or Evidence Code section 730, and persons who are professional staff or trainees in a child custody or visitation evaluation or investigation, must complete basic training in domestic violence issues as described in Family Code section 1816 and in addition:

(1) ~~(Advanced training)~~ Sixteen hours of advanced training must be completed within a 12-month period. These 16 hours must include:

(A) Twelve hours of instructions, as approved by the Administrative Director of the Courts, in:

1 (i)–(v) ***

2
3 (B) ***

4
5 (2) ***

6
7 (e) ***

8
9 (f) **[Certificate of course completion]** Domestic violence training providers must
10 distribute a certificate of completion to each person who has attended the
11 initial 12-hour ~~in-person classroom~~ instruction and to each person who has
12 attended the annual 4-hour update training in domestic violence for child
13 custody evaluators. The certificate of completion must document (or state) the
14 number of hours of training offered, the number of hours the person attended,
15 the date(s) of the training, and the name of the training provider.

16
17 (g) **[Local court rules]** Each local court may adopt rules regarding the procedures
18 by which child custody evaluators who have completed the training in
19 domestic violence as mandated by this rule will notify the local court. In the
20 absence of such a local rule of court, child custody evaluators must attach
21 copies of their certificates of completion of the initial 12 hours of advanced ~~in-~~
22 ~~person classroom~~ instruction and of the most recent annual 4-hour update
23 training in domestic violence to each child custody evaluation report.

24
25 (h) ***

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT 2 09/30/03 CASE NUMBER: _____
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
MARRIAGE OF PETITIONER: _____ RESPONDENT: _____	
DECLARATION FOR DEFAULT OR UNCONTESTED <input type="checkbox"/> DISSOLUTION or <input type="checkbox"/> LEGAL SEPARATION	

(NOTE: Items 1 through 16 apply to both dissolution and legal separation proceedings.)

1. I declare that if I appeared in court and were sworn, I would testify to the truth of the facts in this declaration.
2. I agree that my case will be proven by this declaration and that I will not appear before the court unless I am ordered by the court to do so.
3. All the information in the ☐ Petition ☐ Response is true and correct.
4. **DEFAULT OR UNCONTESTED** (Check a or b)
 - a. ☐ The default of the respondent was entered or is being requested, and I am not seeking any relief not requested in the petition. **OR**
 - b. ☐ The parties have agreed that the matter may proceed as an uncontested matter without notice, and the agreement is attached or it is incorporated in the attached marital settlement agreement or stipulated judgment.
5. **MARITAL SETTLEMENT AGREEMENT** (Check a or b)
 - a. ☐ The parties have entered into an ☐ AGREEMENT or ☐ STIPULATED JUDGMENT regarding their property and marital rights, including support, the original of which is or has been submitted to the court. I request the court to approve the agreement. **OR**
 - b. ☐ There is NO AGREEMENT or STIPULATED JUDGMENT, and the following statements are true (check at least one, including item (2) if a community estate exists):
 - (1) ☐ There are no community or quasi-community assets or community debts to be disposed of by the court.
 - (2) ☐ The community and quasi-community assets and debts are listed on the attached **completed** current *Property Declaration* (form FL-160), which includes an estimate of the value of the assets and debts that I propose to be distributed to each party. The division in the proposed *Judgment (Family Law)* (form FL-180) is a fair and equal division of the property and debts, or if there is a negative estate, the debts are assigned fairly and equitably.
6. **DECLARATION OF DISCLOSURE** (Check a, b, or c)
 - a. ☐ Both the petitioner and respondent have filed, or are filing concurrently, a *Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration* (form FL-141).
 - b. ☐ This matter is proceeding by default. I am the Petitioner in this action and have filed a proof of service of the preliminary *Declaration of Disclosure* (form FL-140) with the court. I hereby waive receipt of the final *Declaration of Disclosure* (form FL-140) from the respondent.
 - c. ☐ This matter is proceeding as an uncontested action. Service of the final *Declaration of Disclosure* (form FL-140) is mutually waived by both parties. A waiver provision executed by both parties under penalty of perjury is contained in the marital settlement agreement or proposed judgment, or other separate stipulation.
7. ☐ **CHILD CUSTODY** should be ordered as set forth in the proposed *Judgment (Family Law)* (form FL-180).
8. ☐ **CHILD VISITATION** should be ordered as set forth in the proposed *Judgment (Family Law)* (form FL-180).
9. **SPOUSAL AND FAMILY SUPPORT** If a support order or attorney fees are requested, submit a completed Income and Expense Declaration (form FL-150), unless a current form is on file. Include your best estimate of the other party's income. (Check at least one of the following):
 - a. ☐ I knowingly give up forever any right to receive spousal support.
 - b. ☐ I ask the court to reserve jurisdiction to award spousal support in the future to (name): _____
 - c. ☐ Spousal support should be ordered as set forth in the proposed *Judgment (Family Law)* (form FL-180).
 - d. ☐ Family support should be ordered as set forth in the proposed *Judgment (Family Law)* (form FL-180).

PETITIONER:	CASE NUMBER:
RESPONDENT:	

10. ☐ CHILD SUPPORT should be ordered as set forth in the proposed *Judgment (Family Law)* (form FL-180).
11. a. I ☐ am receiving ☐ am not receiving ☐ intend to apply for public assistance for the child or children listed in the proposed order.
- b. To the best of my knowledge the other party ☐ is ☐ is not receiving public assistance.
12. ☐ Petitioner ☐ Respondent is presently receiving public assistance and all support should be made payable to the local child support agency at the address set forth in the proposed judgment. A representative of the local child support agency has signed the proposed judgment.
13. If there are minor children, check and complete item a and item b or c:
- a. My gross (before taxes) monthly income is as follows: \$
- b. ☐ The estimated gross monthly income of the other party is as follows: \$
- c. ☐ I have no knowledge of the estimated monthly income of the other party for the following reasons (*specify*):
- d. ☐ I request that this order be based on ☐ Petitioner's ☐ Respondent's earning ability. The facts in support of my estimate of earning ability are (*specify*):
- ☐ Continued in Attachment 13d.
14. ☐ PARENTAGE of the children of the Petitioner and Respondent born prior to their marriage should be ordered as set forth in the proposed *Judgment (Family Law)* (form FL-180). A declaration regarding parentage is attached.
15. ☐ ATTORNEY FEES should be ordered as set forth in the proposed *Judgment (Family Law)* (form FL-180).
16. There are irreconcilable differences that have led to the irremediable breakdown of the marriage and there is no possibility of saving the marriage through counseling or other means.
- This declaration maybe reviewed by a commissioner sitting as a temporary judge who may determine whether to grant this request or require my appearance under Family Code section 2336.

STATEMENTS IN THIS BOX APPLY ONLY TO DISSOLUTIONS — items 18 through 21

18. Petitioner and/or the Respondent has been a resident of this county for at least three months and of the State of California for at least six months continuously and immediately preceding the date of the filing of the petition.
19. I ask that the court grant the request for a judgment for dissolution of marriage based upon irreconcilable differences and that the court make the orders set forth in the proposed *Judgment (Family Law)* (form FL-180) submitted with this declaration.
20. ☐ This declaration is for the termination of **marital status only**. I ask the court to reserve jurisdiction over all issues whose determination is not requested in this declaration.
21. ☐ Petitioner ☐ Respondent requests restoration of his or her former name as set forth in the proposed *Judgment (Family Law)* (form FL-180).

THIS STATEMENT APPLIES ONLY TO LEGAL SEPARATIONS

22. I ask that the court grant the request for a judgment for legal separation based upon irreconcilable differences and that the court make the orders set forth in the proposed *Judgment (Family Law)* (form FL-180) submitted with this declaration.
- I UNDERSTAND THAT A JUDGMENT OF LEGAL SEPARATION DOES NOT TERMINATE A MARRIAGE AND I AM STILL MARRIED.**

23. ☐ Other (*specify*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:



(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

A ☐ California Support Order ☐ California Order for Earnings Assignment
in the above actions has been registered with this court. A copy of the *Statement for Registration of California Support Order* (FL-650, or use FL-440 if the obligee has registered the order) is attached.

2. I certify that I am not a party to this cause and that a copy of the notice of registration and statement for registration were sent by first-class mail to each of the courts named in item 6 of the statement for registration. The copies were enclosed in an envelope with postage fully prepaid. The envelope was addressed to the court named in item 6 of the *Statement for Registration of California Support Order* (FL-650, or FL-440), sealed, and deposited with the United States Postal Service

on (*date*):

- Date:

Clerk, by _____, Deputy

Page 1 of 1

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY <h1 style="text-align: center;">DRAFT 6</h1> <h2 style="text-align: center;">09/30/03</h2>
CASE NAME:	
PROMISE TO APPEAR—JUVENILE Juvenile 14 Years or Older (Welfare and Institutions Code, § 629)	
LAW ENFORCEMENT AGENCY: REPORT NUMBER:	

Name of youth:

Date of birth of youth:

Address of youth:

Phone number of youth:

Name of parent, guardian, or relative:

Address of parent, guardian, or relative *(if different from that of youth)*:Phone number of parent, guardian, or relative *(if different from that of youth)*:1. I have been arrested for one or more of the following felony offenses *(list code violations alleged)*:
 2. The ☐ police officer ☐ probation officer is releasing me to *(name)*:
 who is my ☐ mother ☐ father ☐ guardian ☐ relative *(state relationship)*:
3. **I PROMISE TO APPEAR**

on <i>(date)</i> :	at <i>(time)</i> :	in Dept.:	Room:
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located at ☐ courthouse address above ☐ other *(specify address)*:

4. I understand that if I do not come to court on the date and at the time indicated, the court may order that a warrant be issued for my arrest.

Date:



(SIGNATURE OF YOUTH)

(SIGNATURE OF ☐ PARENT ☐ GUARDIAN ☐ RELATIVE)

Witnessed by:


 (SIGNATURE OF ☐ PROBATION OFFICER
☐ POLICE OFFICER *(agency)*: